IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.09.2006

CORAM

THE HON'BLE MR. JUSTICE P. JYOTHIMANI

W.P.No.35280/2006 & M.P.Nos.1&2/2006

A.Nayimunnisa .. Petitioner

vs

The Inspector General of Registration,
Chennai-28. .. Respondent

Petition filed under Article 226 of the Constitution of India, praying this Court for the issue of a Writ of certiorari calling for the records in connected with the proceedings issued in Na.Ka.No.5560/2004/A1 dated 1.8.2005 passed by the respondent and quash the same.

For Petitioner ... Mr.S.Ilamvaludhi
For Respondent ... Mr.A.Edwin Prabakar, GA

ORDER

In this writ petition, the Enquiry Officer's Report dated 1.8.2005 is under challenge. The case of the petitioner is that 3 charges were framed against the petitioner in respect of functioning as a Sub-Registrar. The challenge is on the ground that even though in respect of the 3 charges, the Enquiry Officer has found that the charges were not proved, however, in respect of charges No.1 and 3 having held that the charges are not proved, the Enquiry Officer has given opinion that the same are partly proved.

2. A reference to the Enquiry Officer's Report shows that while narrating the Charge No.1, the Enquiry Officer has found that the charge that the petitioner has made correction in order to avoid an enquiry under section 47-A(1) of the Indian Stamp Act, has not been proved. But, nevertheless stated that the said charge is partly proved. In respect of charge No.2, the Enquiry Officer has given his opinion that the charge is not proved. However, in respect of charge No.3, which is the final charge also, on analysing the entire enquiry, the Enquiry Officer has

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come to a conclusion that the charge that the petitioner has acted in order to cause loss to the Department has not been proved, however, finally concludes that it is partly proved.

3. In view of the said contradictory stand taken by the Enquiry Officer, the present writ petition is filed. Admittedly, as against the Enquiry Officer's Report, the petitioner has in fact submitted his explanation on 25.4.2006 and the final order is yet to be passed.

4. Considering the circumstances of the case, that when the Enquiry Officer himself has found that the charges are not proved, however made an observation that the charges are partly proved, it is for the final authority to pass orders taking into consideration the said contradictory stand taken by the Enquiry Officer. In these circumstances, in stead of interfering with the Enquiry Officer's Report, this Court is of the opinion that the final authority, the respondent herein shall take into consideration the nature of the Enquiry Officer's report, as I have enumerated above, while passing final orders. In view of the same, the respondent is directed to pass final order taking into consideration the Enquiry Officer's report in respect of each and every charges holding that the charges are not proved. However, the orders shall be passed by the respondent in the light of the observation made above and in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

5. With the above direction, the writ petition is disposed of. No costs. Consequently, connected M.Ps. are closed

ap

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The Inspector General of Registration,
Chennai-28.

+ One cc to the Additional Government Pleader sr no. 45298

NA(CO)
NM(28.09.2006)

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